

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MAY 23, LLC,

Plaintiff,

v.

Case No. 12-C-999

CLIFF TEBON and DIANNE TEBON,

Defendants.

ORDER

This is a diversity action seeking damages for theft of a motor home under Section 895.446 of the Wisconsin Statutes. The complaint alleges that the plaintiff limited liability company, a citizen of Montana, entered into a contract with a Florida broker to sell on consignment a Monaco motor home, which plaintiff had previously purchased for \$269,000. According to the complaint, the broker sold the motor home to the defendants, who are citizens of the State of Wisconsin, for cash plus a trade-in. Plaintiff claims that the broker was not authorized to accept a trade-in and that he has also failed to turn over to plaintiff the cash the defendants paid him. Plaintiff obtained a judgment of replevin for the motor home in an action against the broker in a Florida court, but the defendants were not named as parties to the action and never received notice. Along with its complaint, plaintiff filed a motion for a temporary restraining order, preliminary injunction and attachment to prohibit the defendants from removing the motor home from Wisconsin, and from making any alterations to, or damaging the motor home while the action is pending.

Although the defendants had not been served, the Court set the matter on its calendar for telephone hearing on October 2, 2012, to address plaintiff's motion. Defendants appeared specially

by Attorney Stephen Kase and indicated the defendants had no objection to plaintiff's motion to the extent it enjoined them from committing waste, transferring or encumbering the motor home for the brief time necessary to hold a hearing. Attorney Kase stated that his clients intended to travel in the motor home sometime at the end of the month and opposed the motion to the extent it would prevent them from using the motor home for that purpose. Attorney Kase also indicated that the defendants wanted the plaintiff enjoined from pursuing its replevin action in state court until the federal action was resolved. Based upon the discussion with counsel and the record in the matter, the Court hereby enters the following order:

1. Defendants Cliff and Dianne Tebon are enjoined from removing the subject motor home, a 2006 Dynasty Monaco Motor Home, VIN 1RF13561961036936, from the State of Wisconsin and from transferring, encumbering, altering, modifying or committing waste on said motor home until further order of the Court.
2. Plaintiff is enjoined from pursuing replevin of the vehicle absent further order of the Court.
3. This matter is scheduled for a hearing on the plaintiff's motion for a Preliminary Injunction on October 11, 2012 at 9:30 a.m. The above orders are intended to maintain the status quo and the Court will address whether they should continue at that time.
4. In addition, plaintiff shall file a brief in support of his motion for a Temporary Restraining Order on or before the end of business on October 4, 2012. Defendant may file a response on or before the end of business on October 10th.

SO ORDERED this 3rd day of October, 2012.

s/ William C. Griesbach
William C. Griesbach
United States District Judge